IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6767 of 2006 (O&M)

Date of Decision: 18.12.2006

Om Dutt ...Petitioner

Vs.

Bhikha Ram & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Sanjay Mittal Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

By way of present revision petition the challenge is to the orders passed by the learned lower appellate court below vide which three applications moved by the petitioner have been disposed of.

The petitioner by way of an application has sought the framing of additional issue on the question of issuance of notice under Section 106 of the Transfer of Property Act (for short the Act) before filing the suit. The learned Trial Court had dismissed the application by holding that issuance of notice was duly proved on record and finding was also recorded on the basis of evidence by the learned Trial Court that notice under Section 106 of the Act was issued before filing of the suit. Resultantly, no additional

issue was required to be framed.

Second application moved by the petitioner was that the learned Trial Court has wrongly held that issues No.3, 4, 5 ,7 and 8 were not pressed at the time of arguments. Learned court blow dismissed the said application by permitting the petitioner to raise the arguments on the said issues at the time of hearing of the appeal.

The third application moved by the petitioner was that Smt.Suman be also impleaded as legal heir of Hazari Singh along with other legal heirs. The said application was allowed and Smt. Suman daughter of Hazari Singh was also ordered to be impleaded as the legal heir of Hazari Singh.

The other application moved by the petitioner was that the appeal be disposed of in terms of the compromise entered into between the parties. The factum of compromise was denied by the respondent and in view of this, learned lower appellate court by way of impugned order rejected the said application.

Learned counsel for the petitioner vehemently contended that the parties should have been allowed to lead evidence on the question of compromise and the application filed by the petitioner could not have been summarily rejected.

I have considered the argument raised by the learned counsel for the petitioner and find no force in the same. The petitioner claimed that the matter has been compromised, when appeal was pending before the lower Appellate Court, however, the factum of compromise was denied by the respondent and in view of this the learned lower Appellate Court rightly held that the appeal is to be decided on merit and not on the basis of

compromise which is not admitted by the parties.

Thus, there is no illegality in the orders passed by the learned courts below which may call for interference by this Court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

18.12.2006
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